

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 713 of 2014**

1. Sri Ram General Insurance Company Limited E-8, E.P.I.P. Rico, Sitapur, Jaipur Rajasthan.

---- Appellant**Versus**

1. Smt. Rajoiya Devi And Ors. W/o Late Radha Singh Aged About 35 Years,
 2. Ku. Bashanti D/o Late Radha Singh Aged About 13 Years,
 3. Jitendra Kumar Singh S/o Late Radha Singh Aged About 10 Years,
 4. Ku. Jaswanti D/o Late Radha Singh Aged About 8 Years,
 5. Dharmendra Kumar Singh S/o Late Radha Singh Aged About 6 Years Minor,
 6. Rajendra Kumar Singh S/o Late Radha Singh Aged About 3 Years,
 7. Smt. Bhifani Devi W/o Late Bachaia Singh Aged About 65 Years,
- For Appellant No. 2 to 6 are Minor, Through Mother and appellant No. 1 Smt. Rajoiya Devi, All R/o village Adhorra, Thana- Balarampur, Distt. Ramanujganj C.G. **(Claimants)**
8. Shadat S/o Ass Mohamad Aged About 53 Years R/o Kandari, Makan No. 32, Thana- Chando, Distt. Balrampur-Ramanujganj (C.G.). **(Owner of Truck C.G. 15 A/3824).**
 9. Alok Mishra S/o Shita Ram Mishra Aged About 22 Years R/o Village Bagara Chauk- Vijay Nagar, Tah. Ramanujganj, Distt. Balrampur (C.G.) **(Driver of Truck C.G. 15 A/3824).**
 10. Chhottu Singh S/o Aged About 22 Years R/o Village Adhorra, Thana- Balarampur, Distt. Balrampur-Ramanujganj C.G., **(Owner of Hero Honda Motorcycle).**

---- Respondents

For Appellant	:	Shri Deepak Gupta, Advocate.
Respondent Nos. 1 to 7	:	Shri A.K. Yadav, Advocate

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

12/04/2019

1. This appeal is preferred by the Insurance Company/non-applicant No. 3 under Section 173 of the Motor Vehicles Act, 1988 against the award dated 18/12/2013 passed by Additional Motor Accident Claims Tribunal, Ramanujganj, District Balrampur Ramanujganj (C.G.) in Claim Case No. 77/2012 awarding total compensation of Rs. 4,25,000/- with interest @ 9% per annum from the date of award till realization, fastening liability on the non-applicant No. 1, 2 & 3 jointly and severally.
2. As per averments of claim petition, on 31/05/2010 deceased Radhe Singh around 02:30 PM, aged about 40 years, earning Rs. 4800 per month as Mason was sitting on Hero Honda Motorcycle as pillion rider, driven by Chhottu Singh with a moderate speed. However on the way near Ashok Hotel, main road Balrampur, Non-applicant No. 2 Alok Mishra driver of the offending Truck bearing No. CG15 A 3824 rashly and negligently dashed the motorcycle of deceased. As a result of this accident, Radhe Singh sustained grievous injuries on head, chest and other parts of the body and died on the spot. At the time of accident the offending vehicle is owned by non-applicant No. 1 and insured with non-applicant No. 3.
3. On claim petition filed by claimants' wife, children and mother of deceased under section 166 of Motor Vehicles Act, 1988 the Tribunal considered the evidence led by the parties and passed an award as mentioned above.
4. Learned counsel for the appellant/Insurance Company has raised various grounds in this memo of appeal, however, he is not pressing all those grounds and is assailing the award on the following grounds only:-

- i) that the learned Tribunal wrongly fastened liability upon the Insurance Company.
 - ii) that at the time of accident deceased was not holding a valid and effective driving license.
 - iii) that the compensation awarded by learned Tribunal is on higher side.
5. On the other hand, learned counsel for the respondent opposes the contention made by the counsel for the appellant and supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matter has rightly awarded compensation which needs no interference by this Court.
 6. Heard learned counsel for the parties and perused the material available on record.
 7. No any counter appeal made by the respondent as submitted by both the counsel for both the parties.
 8. Looking to the entire pleadings and evidence of the instant case, written statement is not filed by Insurance Company. At the time of accident, the driver of the offending vehicle non-applicant No.2/Alok Mishra was not having a valid and effective driving license, no any pleadings nor any evidence given by the Insurance Company regarding the breach of policy condition. Therefore, learned Tribunal rightly fastened liability upon the Insurance Company.
 9. The Tribunal considering the age of the deceased as 40 years on the basis of documents available on record, the dependency, keeping in view the decision of Hon'ble Supreme Court in ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121*** applied multiplier 15, deducted 1/4 towards personal and living expenses of the deceased. The

Tribunal further awarded Rs. 5,000/- towards funeral expense and Rs. 5,000/- towards loss of estate, Rs. 10,000/- towards loss of consortium. Considering the facts and circumstances of the case, the nature and quality of evidence adduced by the claimants as reflected from the impugned award, the said assessment appears to be just and proper, warranting no interference by this Court.

10. Resultantly, the appeal being without any substance is liable to be dismissed and is, accordingly, dismissed.

-Sd/-
(Gautam Chourdiya)
Judge